



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश शासन द्वारा प्रकाशित

शिमला, सोमवार, 10 दिसम्बर, 1962/19 अग्रहायण, 1884

HIMACHAL PRADESH ADMINISTRATION

LAW DEPARTMENT

NOTIFICATIONS

Simla-4, the 4th December, 1962

No. 1-58/62-CSB.—The Indian Soldiers (Litigation) Rules, 1938 as amended up-to-date which were framed by the Central Government in exercise of the powers conferred by section 13 of the Indian Soldiers (Litigation) Act, 1925, are hereby published in the Himachal Pradesh Administration Gazette for the information of all concerned.

S. R. MAHANTAN,
Under Secretary (Judicial).

THE INDIAN SOLDIERS (LITIGATION) RULES, 1938

Central Government Defence Department notification No. 455, dated May 14, 1938 as amended by notification Nos. 540 and 1684, dated, April 5, 1941 and October 11, 1941 and Ministry of Defence notification SRO 332, dated October 25, 1952.

In exercise of the powers conferred by section 13 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), the Central Government, after consulting the High Courts concerned, is pleased to make the following rules, namely:—

1. These rules may be called the Indian Soldiers (Litigation) Rules, 1938.
2. (1) In these rules, "the Act", means the Indian Soldiers (Litigation) Act, 1925 (IV of 1925).
(2) All words used herein and defined in the Act shall be deemed to have the meanings respectively attributed to them by the Act.
3. The prescribed authority for the purposes of sub-clause (IV) of clause (b) of section 3 and sections 6, 7 and 8 of the Act shall be the Officer Commanding the unit or the depot of the unit to which the soldier belongs.
4. The certificate given by a Collector under section 5 of the Act shall be in Form A of the Schedule.
5. The notice given by the Court under section 6 of the Act shall be in Form B of the Schedule and shall be sent to the prescribed authority care of the General

Officer Commanding-in-Chief of the Command in which the Court is situated and the certificate of the prescribed authority under section 7 of the Act, shall be in Form C of the Schedule.

6. If at any time it appears to the prescribed authority that the circumstances in which he certified to the Court under section 7 of the Act that a postponement of the proceedings was necessary in the interests of justice, no longer exist, he shall forthwith certify to the Court to that effect in Form D of the Schedule.

7. On receipt of a certificate from the prescribed authority under section 7 of the Act that a postponement of the proceedings is necessary in the interests of justice, the Court shall postpone the proceedings until the receipt of a certificate in Form D from the prescribed authority, or until the soldier is represented in the proceedings by some person duly authorised to appear, plead or act in his behalf.

8. The prescribed authority for the purposes of section 12 of the Act shall be the General Officer Commanding-in-Chief of the Command in which the Court is situated.

SCHEDULE

FORM A

(See rule 4)

Collector's certificate under section 5 of the Indian Soldiers (Litigation) Act, 1925.

From

The Collector,
District.....

To

In re: No..... of 19 ..

Versus

No..... Dated.....
Sir,

I have the honour to certify under section 5 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), that I have reason to believe that..... son of....., who is an Indian soldier ordinarily residing/having property in my district and who is a party in the above mentioned..... (enter suit, appeal, application or other proceedings), now pending in..... (enter name of Court) is unable to appear therein.

Yours faithfully,

Collector.

- Notes.*—1. This certificate should be sent by post in a registered cover or by hand and an acknowledgment should be obtained for it.
2. It should be addressed, in the case of a High Court, to the Registrar of the Court, or in the case of a Board of Revenue to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases to the Presiding Officer of the Court.

FORM B

(See rule 5)

Notice under section 6 of the Indian Soldiers (Litigation) Act, 1925

In the.....
No..... of.....

Versus

To
The Officer Commanding.....(enter name of unit/depot of unit) care
of the General Officer Commanding-in-Chief,.....
Command.

Please take notice that *[upon the certificate of the Collector of.....
under section 5 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925)] [having
had reason to believe]* that..... Son of.....
an Indian soldier, who is a party in the above mentioned proceeding now
pending in this Court and is not represented by any person duly authorised to
appear, plead or act on his behalf, is unable to appear therein, this court has,
under section 6 of the said Act, suspended the proceeding. If, within the period
prescribed in section 8 of the said Act, no certificate is received from you under
section 7 thereof, the Court will, if it thinks fit, continue the proceeding.

Given under my hand and the seal of the Court, this the
day of19 ..

*Presiding Officer of the Court,
Registrar.*

Note.—This notice should be sent by post in a registered cover, or by hand
and an acknowledgment should be obtained for it.

*One of the two portions within the square brackets should, according to
the circumstances of each case, be penned through.

FORM C

(See rule 5)

Certificate under section 7 of the Indian Soldiers (Litigation) Act, 1925

From
The Officer Commanding,
.....
(enter name of unit/depot of unit).

To
.....
No.....of.....19 ..

Versus

No. Dated.....
Sir,

I have the honour to acknowledge receipt of your notice, dated.....
under section 6 of the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), in the
above mentioned proceeding, and to certify under section 7 of the said Act
that..... son of....., in respect of whom
the above mentioned notice has been given, is serving under special conditions
and that a postponement of the proceeding in respect of the soldier is necessary
in the interests of justice.

Yours faithfully,

Officer Commanding.

Notes.—I. This certificate should be sent by post in a registered cover, or
by hand and an acknowledgment should be obtained for it.

II. It should be addressed, in the case of a High Court, to the
Registrar of the High Court or in the case of a Board of
Revenue to the Secretary of such Board, or in the case of a
Financial Commissioner, to the Clerk of the Court, or in other
cases to the Presiding Officer of the Court.

FORM D
(See rule 6)

Certificate under rule 6 of the Indian Soldiers (Litigation) Rules, 1938

From

To

In re: No..... of 19
Versus

....., dated.....

Sir,

I have the honour to invite a reference to my letter No..... dated....., and to certify under rule 6 of the Indian Soldiers (Litigation) Rules, 1938, that circumstances no longer exist for the postponement of the above mentioned.....(enter suit, appeal, application or other proceeding), now pending in.....(enter name of Court), whereinson of....., an Indian soldier is a party.

Yours faithfully,

Officer Commanding.

- Notes.*—1. This certificate should be sent by post in a registered cover, or by hand and an acknowledgment should be obtained for it.
2. It should be addressed, in the case of a High Court, to the Registrar of the High Court, or in the case of a Board of Revenue to the Secretary of such Board, or in the case of a Financial Commissioner, to the Clerk of the Court, or in other cases to the Presiding Officer of the Court.

Simla-4, the 4th December, 1962

No. 1-58/62-CSB.—The Government of India, Ministry of Defence notification No. F. 68258/AG/PSI, dated the 15th November, 1962 issued under clause (b) of section 3 of the Indian Soldiers (Litigation) Act, 1925 (4 of 1925) and already published in the Gazette of India, Extraordinary, Part II. Section 4, dated the 17th November, 1962 as S.R.O. 2-E is hereby republished in the Himachal Pradesh Administration Gazette for the information of all concerned.

S. R. MAHANTAN,
Under Secretary (Judicial).

**GOVERNMENT OF INDIA
MINISTRY OF DEFENCE**

NOTIFICATION

New Delhi, the 15th November, 1962

S.R.O. 2-E.—In pursuance of clause (b) of section 3 of the Indian Soldiers (Litigation) Act, 1925 (4 of 1925), the Central Government hereby declares that the service of soldiers during the military operations against external aggression in relation to which a proclamation of emergency has been issued on 26th October, 1962, shall be deemed to be service under war conditions for the purposes of the said Act.

(No. F. 68258/AG/PSI)

S. D. NARGOLWALA,
Joint Secretary.